IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 5088 of 1997

Between:

M.A.Saleem, S/o. M.A.Hakeem,
R/o. 6-620, Iqbal Ahmednagar,
Manchiryala, Adilabad District.

..... PETITIONER

AND

1 The Industrial Tribunal-cum- Labour Court,
Godavarikhani, Karimnagar District.
2 The Depot Manager,
APSRTC., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ more particularly one in the nature of writ of certiorari after calling records in I.D.No.286/91 on the file of 1st Respondent and quash the award in so far it relates to denial of backwages, continuity of service and all other attendant benefits of service, with backwages and all other attendant benefits to the petitioner.

Counsel for the Petitioner: MR.V.VISHWANATHAM

Counsel for the Respondent No.1: The Govt. Pleader for Labour

Counsel for the Respondent No.2: MR.V.T.M.PRASAD, SC for APSRTC

The Court made the following ORDER:

ORDER:

This writ petition is field by the petitioner-workman aggrieved by the award dated 23.12.1993 passed by the Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar in I.D.No.286 of 1991.

2 . The petitioner was working as a Conductor in the second respondent– Corporation. On the ground of certain irregularities committed by the petitioner, he was chargesheeted and an enquiry was conducted. Basing on the report of the Enquiry Officer, the petitioner was removed from service. Though the said order of removal was passed on 17.12.1985, the petitioner moved the labour Court in the year 1990 seeking to quash the order of termination as illegal.

3 . The labour Court, on appreciation of documentary evidence adduced by the second respondent, as no evidence was adduced on behalf of the petitioner-workman, recorded its finding with reference to the charge that the petitioner had committed theft of Rs.920/- from another Conductor–
S. Sudershanam, in favour of the workman. But, with reference to other charges, the findings of the Enquiry Officer were confirmed. The labour Court though confirmed the findings of the Enquiry Officer with reference to the other charges, however, felt that the punishment of removal imposed on the workman was not proper and just, and therefore, he set aside the order of removal of the petitioner from service and ordered reinstatement as a fresh Conductor and further ordered that the petitioner shall be entitled to pension and other attendant benefits with continuity of previous service with backwages to the extent of 50% from 01.07.1990 only. Aggrieved by that, the workman has come up with the present writ petition.

4. According to the learned counsel, there is ambiguity in the order passed by the

labour Court as the direction was to reinstate the petitioner as a fresh appointee, but at the same time ordered that the previous service for the purpose of pension and attendant benefits with backwages shall be calculated from 01.07.1990. Therefore, the petitioner sought for clarification to the effect that the petitioner is entitled for all the benefits of his past service by modifying the order of the Tribunal. The learned counsel contended that the denial of past service is not proper, though it was not intended by the Tribunal in view of the direction ordering reinstatement as a fresh Conductor, therefore sought for clarification.

5. Heard both sides and considered the material available on record.

6. The facts as disclosed from the material on record show that the petitioner, who was working as Conductor, was alleged to have committed certain irregularities including the theft of cash from another Conductor. Therefore, charges were framed against the petitioner and an enquiry was conducted. The Enquiry Officer reported that the charges are proved. As a result, order of removal was passed on 17.12.1985. The petitioner did not bother to question the said order till 01.07.1990. When he approached the labour Court, the labour Court though gave a favourable finding in favour of the workman in so far as the charge of theft, which is charge no.4, but with reference to the other three charges, they were left in tact. Therefore, the petitioner is liable for punishment with reference to those three charges. Accordingly, the labour Court considered the proportionality of the punishment and felt that the order of removal is disproportionate and therefore reinstated by appointing the petitioner as a fresh Conductor. But, at the same time, inconsistent to the above direction granted the benefit of past service and also attendant benefits as well as 50% of the backwages. But latter part of the relief granted by the Tribunal would not fit into the relief of reinstatement as a fresh Conductor.

7. Therefore, to the extent of latter part of the benefit granted by the labour Court, the award is set aside. However, the respondents are directed to count the past service of the petitioner for the purpose of terminal benefits and not for any other purpose. Accordingly, the order of the Tribunal is set aside to the extent of granting the previous service for attendant benefits as well as ordering 50% of the backwages.

8. The writ petition is accordingly disposed of. No costs.

S. Ananda Reddy, J

Date: 29.10.2004

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To

1 The Presiding Officer, Industrial Tribunal-cum- Labour Court,
Godavarikhani, Karimnagar District.
2 The Depot Manager,
APSRTC., Hyderabad.

3 Two CD Copies